

U.S. Ser. No. 10/757,170

Atty. Docket No.: 35049/95382

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REMARKS**I. Status of the Claims**

Claims 1, 17, 24, and 30 are amended.

Claims 1-30 are pending.

II. Amendments to Claims

Support for claim amendments can be found throughout the specification, the drawings, and the original claims as filed. For example, support can be found on pages 3-4, paragraphs 00011-00013 and page 8, paragraph 00033, and page 11, paragraph 00040.

III. Claims 1-2, 7-9, 16-18, 22-25, 28 and 29 are Not Anticipated by Trail (US Pat No. 4,181,612)

On page 4 of the Action, the Examiner rejects claims 1, 2, 7, 8, 16, 17, 21-24, 26 and 27 under 35 U.S.C. § 102 (b) as being anticipated by Trail. On page 4, paragraph 6 of the Action, the Examiner states that Trail teaches an apparatus for servicing a bird cage that includes a pump (18) and a receptacle (10).

Claims 1, 17, 24, and 30 are amended to clarify that the receptacle is generally horizontal, defining an edge including a cavity. Trail discloses a funnel-shaped trough. There is no mention of a receptacle including an edge and a cavity in Trail that permits passage therethrough of a liquid as disclosed in the present application.

Trail discloses a funnel-shaped sump or trough (10) as a receptacle to collect the waste and a spray head with orifices to spray water and remove the waste by a flushing action (column 3 lines 55 through column 4 line 45). Trail does not disclose that a constant body of liquid as in claim 7, drains the waste material.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently." *In re Schreiber*, 128 F.3d at 1477. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). To anticipate, every element and

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limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. *Brown v. 3M*, 265 F.3d 1349 (Fed. Cir. 2001).

Trail does not anticipate pending claims 1-2, 7-9, 16-18, 22-25, 28 and 29 under 35 U.S.C. § 102 (b). Applicant respectfully requests that the 102 (b) rejection be withdrawn and the pending claims be allowed.

IV. Claims 3-6, 10-15, 19-21, 26-27 are Non-Obvious Over Trail in view of Karlson (US Pat. No. 1,771,492)

On pages 4-5 of the Action, the Examiner rejects claims 3-6 under 35 U.S.C. § 103 (a) as being unpatentable over Trail in view of Karlson and claims 10-15, 19-21, 26-27 under 35 U.S.C. § 103 (a) as being unpatentable over Trail.

Karlson does not teach a tray that is generally horizontal, includes an edge and defines a cavity configured to permit passage of a liquid and the waste through the cavity. Indeed, the drawer (5) in Karlson, to which the Examiner refers to, includes a screen (6) in the bottom (FIG. 2; page 1, lines 40-45) and when the "fowls in the crate are being held in storage, the drawers 5 are disposed with the screens 6 uppermost" (page 1, lines 55-60).

The drawer (5) in Karlson acts as a screen in upright position and provides footing for the fowls during transportation in an inverted position. The drawer (5) in Karlson is not adapted to receive liquid containing waste and permit passage therethrough. The tray in claim 3 does not facilitate "good footing to animals". The drawer (5) referred to in Karlson (page 1, lines 65-74) provides a "comfortable footing" for the fowls and is designed to hold any waste—not permit passage over an edge as in the pending claims. The tray in claim 3, however, serves as a receptacle to discharge the liquid with the animal waste. A moving body of liquid in the tray in claim 3 does not facilitate "comfortable footing" as stated in Karlson. Therefore, Karlson teaches away from the pending claims 3-6. Karlson merely relates to poultry crates and does not disclose a waste containment system as in pending claims 3-6, even in view of Trail.

To properly combine two references to reach a conclusion of obviousness, there must be some teaching, suggestion or inference in either or both of the references, or knowledge generally available to one skilled in the art, which would have led one to combine the relevant teachings of the

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two references. *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc. et al.* (CAFC 1985) 776 F. 2d 281, 227 USPQ 657. There is no motivation or suggestion in Trail to combine Karlson. Even if Karlson, were combined with Trail, the resulting apparatus still would not render claims 3-6 obvious. Trail does not disclose a tray and a drawer disclosed by Karlson is merely configured to facilitate "good footing" to the fowls and is not configured to receive a liquid and waste into a cavity of the tray and to discharge the liquid and the waste from the cavity over an edge of the tray as in pending claims 3-6. Therefore, claims 3-6 are non-obvious over Trail in view of Karlson.

Regarding claims 10-15, 19-21, 26-27, the Examiner acknowledges that Trail does not teach an additional porous layer, a UV sterilization unit and an automatic shut-off control pump. Based on the foregoing discussion of Trail, because Trail does not teach a waste containment system as disclosed in the present application, the applicant respectfully requests that the 103 (a) rejection be withdrawn.

V. Conclusion

Applicant respectfully requests that the pending claims be allowed. If a telephone interview will clarify some of the issues and expedite the prosecution, the applicant welcomes the Examiner to contact the applicant's representative at 312-338-5921.

No other fees are believed due at this time, however, please charge any additional deficiencies or credit any overpayments to deposit account number 12-0913 with reference to our attorney docket number (35049/95382).

Respectfully submitted,
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